

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

# **HOUSE BILL 2772**

AN ACT

AMENDING SECTION 45-544, ARIZONA REVISED STATUTES; RELATING TO GROUNDWATER WITHDRAWAL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 45-544, Arizona Revised Statutes, is amended to  
3 read:

4       45-544. Transportation in areas not subject to active  
5               management: damages: upper San Pedro water district:  
6               Little Colorado river plateau and Parker groundwater  
7               basins: definitions

8       A. Except as otherwise provided in this section, section 45-547 and  
9 article 8.1 of this chapter, in areas outside of active management areas:

10       1. Groundwater may be transported:

11           (a) Within a subbasin of a groundwater basin or within a groundwater  
12 basin, if there are no subbasins, without payment of damages.

13           (b) Between subbasins of a groundwater basin, subject to payment of  
14 damages.

15       2. Groundwater shall not be transported away from a groundwater basin.

16       3. Groundwater shall not be transported away from the upper San Pedro  
17 water district if established under title 48, chapter 37.

18       B. Notwithstanding subsection A, paragraph 2 or 3 of this section,  
19 subject to payment of damages:

20       1. A person who at any time during the twelve months before January 1,  
21 1991 was transporting away from the Little Colorado river plateau groundwater  
22 basin or the Parker groundwater basin groundwater that was legally withdrawn  
23 from a well in either groundwater basin has the right, subject to  
24 subsection C of this section, to transport groundwater that is legally  
25 withdrawn from the well or a replacement well in approximately the same  
26 location to another groundwater basin in an annual amount equal to the  
27 greater of the maximum amount of groundwater either:

28           (a) That was withdrawn from the well and transported by the person  
29 away from the groundwater basin in any one of the five calendar years  
30 immediately preceding January 1, 1991.

31           (b) That could have been withdrawn from the well during the twelve  
32 month period, taking into account the pump capacity and specific capacity of  
33 the well during that period, or twenty-five acre-feet, whichever is less.

34       2. A person may transport groundwater by motor vehicle from the Little  
35 Colorado river plateau groundwater basin or the Parker groundwater basin to  
36 an adjacent groundwater basin for domestic purposes or stock watering.

37       3. A city or town whose service area is located either in the Little  
38 Colorado river plateau groundwater basin and an adjacent groundwater basin or  
39 in the Parker groundwater basin and an adjacent groundwater basin may  
40 transport groundwater that is withdrawn within that portion of its service  
41 area located in the Little Colorado river plateau groundwater basin or the  
42 Parker groundwater basin to the adjacent groundwater basin for the benefit of  
43 landowners and residents within its service area.

1       4. A city, town or private water company whose service area is located  
2 in two adjacent groundwater basins and provides water utility service to  
3 landowners or residents in both basins as of July 1, 1993 may transport  
4 groundwater between those adjacent groundwater basins.

5       5. The transportation of groundwater in which groundwater is  
6 transported away from the groundwater basin and expansions of that transfer  
7 by the same person or its successor for the same purpose are valid if that  
8 transfer was occurring before September 1, 1993.

9       6. A CITY OR TOWN IN THE COCONINO PLATEAU GROUNDWATER BASIN THAT WAS  
10 TRANSPORTING GROUNDWATER INTO ITS MUNICIPAL WATER SERVICE AREA FROM AN  
11 ADJACENT GROUNDWATER BASIN AS OF JANUARY 1, 2001 MAY CONTINUE AND EXPAND THAT  
12 TRANSFER SUBJECT TO THE FOLLOWING CONDITIONS:

13       (a) THE GROUNDWATER MAY BE WITHDRAWN ONLY FROM WELLS THAT ARE LOCATED  
14 NO MORE THAN TWO MILES FROM THE COCONINO PLATEAU GROUNDWATER BASIN BOUNDARY  
15 AND THAT ARE DRILLED TO DEPTHS OF AT LEAST TWO THOUSAND FIVE HUNDRED FEET  
16 BELOW LAND SURFACE.

17       (b) THE GROUNDWATER MAY BE USED ONLY WITHIN THE MUNICIPAL WATER  
18 SERVICE AREA OF THE CITY OR TOWN.

19       (c) EXCEPT AS PROVIDED IN SUBDIVISION (d) OF THIS PARAGRAPH, THE TOTAL  
20 AMOUNT OF GROUNDWATER THAT MAY BE TRANSPORTED DURING A YEAR SHALL NOT EXCEED  
21 SEVEN HUNDRED ACRE-FEET.

22       (d) THE CITY OR TOWN MAY APPLY TO THE DIRECTOR TO INCREASE THE AMOUNT  
23 OF GROUNDWATER THAT MAY BE TRANSPORTED DURING A YEAR UNDER SUBDIVISION (c) OF  
24 THIS PARAGRAPH IF ADDITIONAL GROUNDWATER IS NEEDED TO PROVIDE FIRE PROTECTION  
25 FOR THE CITY OR TOWN BECAUSE OF AN EMERGENCY CONDITION. THE DIRECTOR SHALL  
26 POST AN APPLICATION FILED UNDER THIS SUBDIVISION ON THE DEPARTMENT'S WEBSITE  
27 BEFORE APPROVING OR DENYING THE APPLICATION. THE DIRECTOR SHALL APPROVE AN  
28 APPLICATION FILED UNDER THIS SUBDIVISION IF THE CITY OR TOWN DEMONSTRATES TO  
29 THE SATISFACTION OF THE DIRECTOR THAT AN EMERGENCY CONDITION EXISTS THAT  
30 MAKES IT NECESSARY FOR THE CITY OR TOWN TO TRANSPORT GROUNDWATER IN EXCESS OF  
31 THE AMOUNT ALLOWED UNDER SUBDIVISION (c) OF THIS PARAGRAPH TO PROVIDE  
32 ADEQUATE FIRE PROTECTION FOR THE CITY OR TOWN. IF THE DIRECTOR APPROVES AN  
33 APPLICATION FILED UNDER THIS SUBDIVISION, THE DIRECTOR SHALL SPECIFY THE  
34 AMOUNT OF GROUNDWATER THAT THE CITY OR TOWN MAY TRANSPORT IN EXCESS OF THE  
35 AMOUNT ALLOWED UNDER SUBDIVISION (c) OF THIS PARAGRAPH AND MAY IMPOSE OTHER  
36 CONDITIONS THAT THE DIRECTOR DEEMS APPROPRIATE.

37       (e) THE CITY OR TOWN SHALL NO LONGER TRANSPORT ANY GROUNDWATER  
38 PURSUANT TO THIS PARAGRAPH IF ALL OF THE FOLLOWING APPLY:

39           (i) AFTER JANUARY 1, 2009, THE CITY OR TOWN OBTAINS THE LEGAL RIGHT TO  
40 RECEIVE A NEW SUPPLY OF WATER ORIGINATING FROM OUTSIDE OF ITS CORPORATE  
41 BOUNDARIES, OTHER THAN GROUNDWATER PURSUANT TO THIS PARAGRAPH.

42           (ii) THE SUPPLY OF WATER IS PHYSICALLY AVAILABLE TO THE CITY OR TOWN  
43 THROUGH A CANAL OR PIPELINE.

1       (iii) THE DIRECTOR DETERMINES THAT THE SUPPLY OF WATER, TOGETHER WITH  
2 OTHER WATER SUPPLIES PHYSICALLY AVAILABLE TO THE CITY OR TOWN, OTHER THAN  
3 GROUNDWATER PURSUANT TO THIS PARAGRAPH, IS SUFFICIENT TO PROVIDE A  
4 SUSTAINABLE WATER SUPPLY FOR THE CITY OR TOWN, INCLUDING PROJECTED GROWTH,  
5 AND NOTIFIES THE CITY OR TOWN OF THAT DETERMINATION.

6       ~~6.~~ 7. Groundwater may be transported away from a groundwater basin  
7 for mineral extraction and processing, except that no groundwater may be  
8 transported away from the Parker groundwater basin or the Little Colorado  
9 river plateau groundwater basin for that purpose and, if the district is  
10 established, groundwater shall not be transported away from the upper San  
11 Pedro water district for that purpose except as provided in paragraph 7 of  
12 this subsection.

13       ~~7.~~ 8. If the upper San Pedro water district is established under  
14 title 48, chapter 37:

15       (a) A city, town or private water company whose service area is  
16 located in the district and a groundwater basin adjacent to the district,  
17 other than the upper San Pedro groundwater basin, and that provides water  
18 utility service to landowners or residents in the district and that adjacent  
19 groundwater basin as of July 1, 1993 may transport groundwater between the  
20 district and that adjacent groundwater basin.

21       (b) The transportation of groundwater in which groundwater is  
22 transported away from the district and away from the upper San Pedro  
23 groundwater basin and expansions of that transfer by the same person or its  
24 successor for the same purpose are valid if that transfer was occurring  
25 before September 1, 1993.

26       (c) The transportation of groundwater in which groundwater is  
27 transported away from the district but not away from the upper San Pedro  
28 groundwater basin and expansions of that transfer by the same person or its  
29 successor for the same purpose are valid if that transfer was occurring  
30 before the date the district is established.

31       C. The director may limit by order the amount of groundwater withdrawn  
32 from a well in the Little Colorado river plateau groundwater basin for  
33 transportation away from the basin pursuant to subsection B, paragraph 1 of  
34 this section in any year in which the director determines that the projected  
35 withdrawals from the well for that purpose will unreasonably increase damage  
36 to surrounding land or other water users and if the well:

37           1. Was drilled on or before January 1, 1991.

38           2. Was not completed on January 1, 1991, but a notice of intention to  
39 drill the well was on file on that date.

40           3. Is a replacement well, in approximately the same location, for a  
41 well described in paragraph 1 or 2 of this subsection.

42       D. Groundwater may be withdrawn from a well drilled in the Little  
43 Colorado river plateau groundwater basin after January 1, 1991, except a  
44 replacement well in approximately the same location or a well drilled after  
45 that date pursuant to a notice of intention to drill that was on file with

1 the department on that date, for transportation away from the basin pursuant  
2 to subsection B, paragraph 1 of this section only if the location of the well  
3 complies with the rules adopted pursuant to section 45-598, subsection A to  
4 prevent unreasonably increasing damage to surrounding land or other water  
5 users from the concentration of wells.

6 E. For the purposes of this section:

7 1. "Domestic purposes" means uses related to the supply, service and  
8 activities of households and private residences and includes the application  
9 of water to less than two acres of land to produce plants or parts of plants  
10 for sale or human consumption, or for use as feed for livestock, range  
11 livestock or poultry, as such terms are defined in section 3-1201.

12 2. "Stock watering" means the watering of livestock, range livestock  
13 or poultry, as such terms are defined in section 3-1201.